

FILED

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11 Attorneys for Plaintiff
12 **GREAT AMERICAN LIFE INSURANCE COMPANY**

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
GREAT AMERICAN LIFE INSURANCE) CASE NO. CV 13-07481-PSG
COMPANY, an Ohio corporation,)
Plaintiff,) COMPLAINT FOR
vs.) INTERPLEADER AND
ERIC CARL KREIS, an individual; PETER)
ZAMBOUROS, as executor of the ESTATE)
OF POLLY KESSEN; and DOES 1 through)
10, Inclusive,)
Defendants.)
NATURE OF CLAIM
1. Plaintiff Great American Life Insurance Company ("GALIC") brings this
complaint for interpleader and injunctive relief against Eric Carl Kreis, an individual

2013 OCT -9 PM 1:29

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY _____

LOCKE LORD LLP
300 South Grand Avenue, Suite 2600
Los Angeles, CA 90071

COPY

1 ("Kreis or Named Beneficiary") and Peter Zambouros, in his capacity as Executor of
2 the Estate of Polly Kessen ("The Estate"), and DOES 1 through 10, inclusive,
3 regarding a dispute over who should receive death benefits under a particular annuity
4 contract.

5 **PARTIES**

6 2. GALIC is a corporation organized and existing under the laws of the
7 State of Ohio with its principal place of business in the State of Ohio.

8 3. On information and belief, defendant Kreis is an individual residing in
9 Ventura County, California, is the former spouse of the decedent insured, and is listed
10 as the beneficiary of the subject annuity contract.

11 4. On information and belief, defendant Peter Zambouros is an individual
12 residing in Queens County, New York and has been appointed as the Executor of the
13 Estate of Polly Kessen, the deceased annuitant.

14 5. The true names and capacities, whether individual, corporate, associate or
15 otherwise, of Defendant DOES 1 through 10, inclusive, are unknown to GALIC who
16 therefore sues said defendants by such fictitious names. GALIC will amend this
17 complaint to allege their true names and capacities when ascertained. GALIC is
18 informed and believes and thereon alleges that each of these fictitiously named
19 defendants is making or has a claim to the funds herein described which is conflicting
20 with the claims of defendants herein and which may subject GALIC to vexatious
21 litigation with respect to such funds. GALIC is informed and believes and thereon
22 alleges that DOES 1 through 10 are residents and citizens of the State of California.

23 **JURISDICTION AND VENUE**

24 6. The Court has subject matter jurisdiction over this controversy pursuant
25 to the principles set forth in 28 U.S.C. § 1335 as the value of the property at issue
26 exceeds \$500.00 and in that plaintiff is a resident of the state of Ohio, while at least
27 one defendant is a resident of California, and, defendants have adverse claims.

28 7. This Court has personal jurisdiction over this matter in that defendants

are making claims regarding an annuity contract issued in California to a California annuitant.

8. Venue is appropriately placed in the Central District of California pursuant to 28 U.S.C. § 1391 as at least one claimant resides in this judicial district.

FACTS

9. Decedent Polly Kessen (the "Annuitant" or "decedent") was the owner and annuitant under a tax qualified, flexible premium GALIC deferred annuity, GALIC Contract No. 04314308, which was issued in the State of California with an effective date of April 15, 1987 (the "Annuity"). Annuitant initially paid \$2,000 (Two Thousand Dollars). The application for the Annuity listed Eric Carl Kreis as the Beneficiary of the Annuity and did not list any contingent beneficiaries. At the time, Polly Kessen and Eric Kreis were residents of California. GALIC is now in the possession and control of the death benefits due under the Annuity as well as any unprocessed premium, unapplied cash and accrued interest which may apply, the total of which constitutes the total death benefits payable under the Annuity.

10. On information and belief, Annuitant died on or about December 8, 2006, and the death benefits under the Annuity at that time of \$12,319.44 became due and payable.

11. On or about November 5, 2010, the Estate notified GALIC of Annuitant's death and advised that Kreis had pre-deceased Annuitant. GALIC notified the Estate that if Kreis died more than 30 days after Annuitant, Kreis' estate would be entitled to the proceeds. Pursuant to GALIC's request, the Estate was unable to provide a copy of Kreis' death certificate.

12. On or about April 17, 2012, the Estate filed a claim for the proceeds of the Annuity.

13. On March 28, 2013, Kreis contacted GALIC by phone during which call GALIC was first notified that Kreis was not deceased.

14. On or about May 3, 2013, Kreis filed a claim for the proceeds of the

Annuity.

15. On information and belief, pursuant to the Judgment of Dissolution of Marriage dated July 11, 2003 in connection with Kreis' and Annuitant's divorce proceedings, the Annuity was awarded to Annuitant. On information and belief, Annuitant did not modify the beneficiary status of the Annuity, and Kreis remained the primary beneficiary of the Annuity.

16. Defendants' demands and potential demands upon GALIC for all or part of the money described in paragraph ten herein are conflicting, including: a demand by Kreis and by the Estate.

17. GALIC therefore brings this action for interpleader pursuant to 28 U.S.C section 1335 and the Federal Rules of Civil Procedure (“Fed. R. Civ. P.”) Rule 22 in that defendants’ conflicting claims and interests subject GALIC to multiple liability.

CLAIM FOR RELIEF

18. GALIC is unable to determine the validity of the conflicting independent demands made by certain defendants as set forth herein and cannot determine to whom the death benefits due under the Annuity are payable.

19. GALIC would be subject to multiple liability if the death benefits due under the Annuity, or any portion thereof, was delivered to any defendants listed herein.

20. GALIC claims no interest in the death benefits described in paragraph ten herein and shall deposit the death benefits due under the Annuity with the clerk of this Court pursuant to Fed. R. Civ. P. Rule 67.

21. GALIC has incurred costs and reasonable attorney's fee in connection with these proceedings and may incur additional costs and fees hereafter.

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1 WHEREFORE, GALIC prays judgment as follows:

2 (1) That defendants and each of them be ordered to interplead and
3 litigate their claims to any portion of the benefits due under the
4 Annuity;

5 (2) That GALIC be discharged from liability to each of said
6 defendants with respect to said money described in paragraph ten
7 of this complaint;

8 (3) That an injunction issue pursuant to 28 U.S.C. § 2283 enjoining
9 any pending or future proceedings against GALIC by any and all
10 defendants in any other court related to this matter;

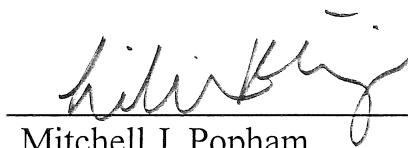
11 (4) That GALIC be awarded costs and reasonable attorney's fees as
12 determined by the Court and to be paid to GALIC from the
13 described funds hereafter deposited in accordance with the Court's
14 instructions; and,

15 (5) For such other and further relief as the Court deems just and
16 proper.

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18 Dated: October 9, 2013

Respectfully submitted,

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LOCKE LORD LLP

By: 

Mitchell J. Popham

Lilian M. Khanjian

Attorneys for Plaintiff **GREAT
AMERICAN LIFE INSURANCE
COMPANY**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Philip S. Gutierrez and the assigned Magistrate Judge is Alka Sagar.

The case number on all documents filed with the Court should read as follows:

2:13-CV-7481-PSG (ASx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

October 9, 2013

Date

By MDAVIS

Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Mitchell J. Popham (SBN: 126194)

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Lilian M. Khanjian (SBN: 259015)

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Los Angeles, California 90071

Telephone: 213.485.1500; Facsimile: 213.485.1200

Attorneys for Plaintiff

GREAT AMERICAN LIFE INSURANCE COMPANY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIAGREAT AMERICAN LIFE INSURANCE
COMPANY, an Ohio corporation,

PLAINTIFF(S)

v.

ERIC CARL KREIS, an individual; PETER
ZAMBOUROS, as executor of the ESTATE OF
POLLY KESSEN; and DOES 1 through 10, Inclusive

DEFENDANT(S).

CASE NUMBER

CV13-07481-PSG (AS)

SUMMONS

TO: DEFENDANT(S): ERIC CARL KREIS, an individual; PETER ZAMBOUROS, as executor of the
ESTATE OF POLLY KESSEN; and DOES 1 through 10, Inclusive

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Mitchell J. Popham, whose address is 300 South Grand Avenue, Suite 2600, Los Angeles, California 90071. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Dated: OCT - 9 2013

Clerk, U.S. District Court

By: Mandy Davis

Deputy Clerk



(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]



UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I. (a) PLAINTIFFS (Check box if you are representing yourself)
GREAT AMERICAN LIFE INSURANCE COMPANY, an Ohio corporation

DEFENDANTS (Check box if you are representing yourself)
ERIC CARL KREIS, an individual; PETER ZAMBOUROS, as executor of the ESTATE OF POLLY KESSEN; and DOES 1 through 10, Inclusive

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)
Mitchell J. Popham (SBN: 126194); Lilian Khanjian (SBN: 259015)
LOCKE LORD LLP
300 South Grand Avenue, Suite 2600
Los Angeles, California 90071
Telephone: 213.485.1500; Facsimile: 213.485.1200

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same information.)

II. BASIS OF JURISDICTION (Place an X in one box only.)

<input type="checkbox"/> 1. U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3. Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2. U.S. Government Defendant	<input type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2		<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. ORIGIN (Place an X in one box only.)

<input checked="" type="checkbox"/> 1. Original Proceeding	<input type="checkbox"/> 2. Removed from State Court	<input type="checkbox"/> 3. Remanded from Appellate Court	<input type="checkbox"/> 4. Reinstated or Reopened	<input type="checkbox"/> 5. Transferred from Another District (Specify) <input type="checkbox"/>	6. Multi-District Litigation
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V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check "Yes" only if demanded in complaint.)

"Costs and attorneys'

CLASS ACTION under F.R.Cv.P. 23: Yes No MONEY DEMANDED IN COMPLAINT: \$ fees"VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
28 USC 1335 Interpleader Action for Annuity Death Benefits

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input checked="" type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent	
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark	
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument		<input type="checkbox"/> 530 General	SOCIAL SECURITY	
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment		<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)	
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act		Other:	<input type="checkbox"/> 862 Black Lung (923)	
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))	
<input type="checkbox"/> 480 Consumer Credit		<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI	
<input type="checkbox"/> 490 Cable/Sat TV		<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))	
<input type="checkbox"/> 850 Securities/Commodities/Exchange		<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS	
<input type="checkbox"/> 890 Other Statutory Actions		<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
<input type="checkbox"/> 891 Agricultural Acts		<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	
<input type="checkbox"/> 893 Environmental Matters		<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 690 Other		
<input type="checkbox"/> 895 Freedom of Info. Act		<input type="checkbox"/> 355 Motor Vehicle Product Liability			
<input type="checkbox"/> 896 Arbitration		<input type="checkbox"/> 360 Other Personal Injury	LABOR		
899 Admin. Procedures		<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 710 Fair Labor Standards Act		
<input type="checkbox"/> Act/Review of Appeal of Agency Decision		<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 720 Labor/Mgmt. Relations		
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury	<input type="checkbox"/> 740 Railway Labor Act		
		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 751 Family and Medical Leave Act		
		<input type="checkbox"/> 369 Personal Injury Product Liability	<input type="checkbox"/> 790 Other Labor Litigation		
		<input type="checkbox"/> 370 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act		

CV13-07481

FOR OFFICE USE ONLY:

Case Number:

CIVIL COVER SHEET

VIM. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	STATE CASE WAS PENDING IN THE COUNTY OF:	INITIAL DIVISION IN CACD IS:
	<input type="checkbox"/> Los Angeles	Western
If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If the United States, or one of its agencies or employees, is a party, is it:	
	A PLAINTIFF?	A DEFENDANT?
Then check the box below for the county in which the majority of DEFENDANTS reside.		Then check the box below for the county in which the majority of PLAINTIFFS reside.
<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western

Question C: Location of plaintiffs, defendants, and claims?	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column C <input type="checkbox"/> only 1 answer in Column C and no answers in Column D Your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question D, below. If none applies, answer question C2 to the right. 	C.2. Is either of the following true? If so, check the one that applies: <input type="checkbox"/> 2 or more answers in Column D <input type="checkbox"/> only 1 answer in Column D and no answers in Column C Your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question D, below. If none applies, go to the box below. 
Your case will initially be assigned to the WESTERN DIVISION. Enter "Western" in response to Question D below.	

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: 	Western

CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? NO YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? NO YES

If yes, list case number(s): _____

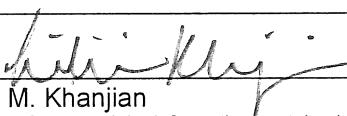
Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- A. Arise from the same or closely related transactions, happenings, or events; or
- B. Call for determination of the same or substantially related or similar questions of law and fact; or
- C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT):



DATE: October 9, 2013

Lilian M. Khanjian

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))